

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 SENATE BILL 916

By: Marlatt

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5
6 AS INTRODUCED

7 An Act relating to security guards; amending 21 O.S.
8 2001, Section 1289.23, as amended by Section 21,
9 Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012, Section
10 1289.23), which relates to off-duty peace officers;
11 deleting certain reference; amending 59 O.S. 2011,
12 Section 1750.2, which relates to definitions;
13 allowing certain reserve officers to be exempt from
14 private security guard licensing; and providing an
15 effective date.

16 BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

17 SECTION 1. AMENDATORY 21 O.S. 2011, Section 1289.23, as
18 amended by Section 21, Chapter 259, O.S.L. 2012 (21 O.S. Supp. 2012,
19 Section 1289.23), is amended to read as follows:

20 Section 1289.23.

21 CONCEALED FIREARM FOR OFF-DUTY POLICE OFFICER

22 A. A full-time duly appointed peace officer who is certified by
23 the Council on Law Enforcement Education and Training (CLEET),
24 pursuant to the provisions of Section 3311 of Title 70 of the
Oklahoma Statutes, is hereby authorized to carry a weapon certified
and approved by the employing agency during periods when the officer

1 is not on active duty as provided by the provisions of subsection B
2 of this section.

3 B. When an off-duty officer carries a certified weapon, the
4 officer shall be wearing the law enforcement uniform prescribed by
5 the employing agency or when not wearing the prescribed law
6 enforcement uniform, the officer shall be required:

7 1. To have the official peace officers badge, Commission Card
8 and CLEET Certification Card on his or her person at all times when
9 carrying a weapon certified and approved by the employing agency;
10 and

11 2. To keep the authorized weapon concealed from view at all
12 times, except when the weapon is used within the guidelines
13 established by the employing agency.

14 C. Nothing in this section shall be construed to alter or amend
15 the provisions of Section 1272.1 of this title or expand the duties,
16 authority or jurisdiction of any peace officer.

17 D. A reserve peace officer who has satisfactorily completed a
18 basic police course of not less than one hundred twenty (120) hours
19 of accredited instruction for reserve police officers and reserve
20 deputies from the Council on Law Enforcement Education and Training
21 or a course of study approved by CLEET may carry a certified weapon
22 when such officer is off duty as provided by subsection E of this
23 section, provided:

24

1 1. The officer has been granted written authorization signed by
2 the director of the employing agency; and

3 2. The employing agency shall maintain a current list of any
4 officers authorized to carry a certified weapon while said officers
5 are off duty, and shall provide a copy of such list to the Council
6 on Law Enforcement Education and Training. Any change to the list
7 shall be made in writing and mailed to the Council on Law
8 Enforcement Education and Training within five (5) days.

9 E. When an off-duty reserve peace officer carries a certified
10 weapon, the officer shall be wearing the law enforcement uniform
11 prescribed by the employing agency or when not wearing the
12 prescribed law enforcement uniform, the officer shall be required:

13 1. To have his or her official peace officer's badge,
14 Commission Card, CLEET Certification Card and written authorization
15 on his or her person at all times when carrying a weapon certified
16 and approved by the employing agency; and

17 2. To keep the authorized weapon concealed from view at all
18 times, except when the weapon is used within the guidelines
19 established by the employing agency.

20 F. Nothing in subsection D of this section shall be construed
21 to alter ~~or~~, amend the provisions of Section 1750.2 of Title 59 of
22 ~~the Oklahoma Statutes~~ or expand the duties, jurisdiction or
23 authority of any reserve peace officer.

24

1 G. Nothing in this section shall be construed to limit or
2 restrict any peace officer or reserve peace officer from carrying a
3 handgun, concealed or unconcealed, as allowed by the Oklahoma Self-
4 Defense Act after issuance of a valid license. When an off-duty
5 officer elects to carry a handgun under the authority of the
6 Oklahoma Self-Defense Act, the person shall comply with all
7 provisions of such act and shall not be representing the employing
8 agency.

9 H. Any off-duty peace officer who carries any weapon in
10 violation of the provisions of this section shall be deemed to be in
11 violation of Section 1272 of this title and may be prosecuted as
12 provided by law for a violation of that section.

13 I. On or after November 1, 2004, a reserve or full-time
14 commissioned peace officer may apply to carry a weapon pursuant to
15 the Oklahoma Self-Defense Act as follows:

16 1. The officer shall apply in writing to the Council on Law
17 Enforcement Education and Training (CLEET) stating that the officer
18 desires to have a handgun license pursuant to the Oklahoma Self-
19 Defense Act and certifying that he or she has no preclusions to
20 having such handgun license. The officer shall submit with the
21 application:

22 a. an official letter from his or her employing agency
23 confirming the officer's employment and status as a
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1 full-time commissioned peace officer or an active
2 reserve peace officer,

3 b. a fee of Twenty-five Dollars (\$25.00) for the handgun
4 license, and

5 c. two passport-size photographs of the peace officer
6 applicant.

7 2. Upon receiving the required information, CLEET shall
8 determine whether the peace officer is in good standing, has CLEET
9 certification and training, and is otherwise eligible for a handgun
10 license. Upon verification of the officer's eligibility, CLEET
11 shall send the information to the Oklahoma State Bureau of
12 Investigation (OSBI) and OSBI shall issue a handgun license in the
13 same or similar form as other handgun licenses. All other
14 requirements in Section 1290.12 of this title concerning application
15 for a handgun license shall be waived for active duty peace officers
16 except as provided in this subsection, including but not limited to
17 training, fingerprints and criminal history records checks unless
18 the officer does not have fingerprints on file or a criminal history
19 records background check conducted prior to employment as a peace
20 officer. The OSBI shall not be required to conduct any further
21 investigation into the eligibility of the peace officer applicant
22 and shall not deny a handgun license except when preclusions are
23 found to exist.

1 3. The term of the handgun license for an active duty reserve
2 or full-time commissioned peace officer pursuant to this section
3 shall be as provided in Section 1290.5 of this title, renewable in
4 the same manner provided in this subsection for an original
5 application by a peace officer. The handgun license shall be valid
6 when the peace officer is in possession of a valid driver license
7 and law enforcement commission card.

8 4. If the commission card of a law enforcement officer is
9 terminated, revoked or suspended, the handgun license shall be
10 immediately returned to CLEET. When a peace officer in possession
11 of a handgun license pursuant to this subsection changes employment,
12 the person must notify CLEET within ninety (90) days and send a new
13 letter verifying employment and status as a full-time commissioned
14 or reserve peace officer.

15 5. There shall be no refund of any fee for any unexpired term
16 of any handgun license that is suspended, revoked, or voluntarily
17 returned to CLEET, or that is denied, suspended or revoked by the
18 OSBI.

19 6. CLEET may promulgate any rules, forms or procedures
20 necessary to implement the provisions of this section.

21 7. Nothing in this subsection shall be construed to change or
22 amend the application process, eligibility, effective date or fees
23 of any handgun license pending issuance on November 1, 2004, or
24 previously issued to any peace officer prior to November 1, 2004.

1 SECTION 2. AMENDATORY 59 O.S. 2011, Section 1750.2, is
2 amended to read as follows:

3 Section 1750.2. As used in the Oklahoma Security Guard and
4 Private Investigator Act:

5 1. "Client" means any person or legal entity having a contract
6 with a person or entity licensed pursuant to the Oklahoma Security
7 Guard and Private Investigator Act, which contract authorizes
8 services to be performed in return for financial or other
9 considerations;

10 2. "Council" means the Council on Law Enforcement Education and
11 Training;

12 3. "License" means authorization issued by the Council pursuant
13 to the Oklahoma Security Guard and Private Investigator Act
14 permitting the holder to perform the functions of a security guard,
15 armed security guard, private investigator, investigative agency, or
16 security agency;

17 4. "Private investigator" means a person who is self-employed,
18 or contracts with, or is employed by an investigative agency for the
19 purpose of conducting a private investigation and reporting the
20 results to the employer or client of the employer relating to:

- 21 a. potential or pending litigation, civil, or criminal,
- 22 b. divorce or other domestic investigations,
- 23 c. missing persons or missing property, or
- 24 d. other lawful investigations, but shall not include:

1 (1) a person authorized or employed by the United
2 States Government, any state government, or any
3 agency, department, or political subdivision
4 thereof while engaged in the performance of
5 official duties,

6 (2) a person or employee of a firm, corporation or
7 other legal entity engaged exclusively in a
8 profession licensed by any board, commission,
9 department or court of this state, or

10 (3) a bona fide, salaried, full-time employee of a
11 firm, corporation or other legal entity not in
12 the primary business of soliciting and providing
13 private investigations, who conducts
14 investigations that are exclusive to and
15 incidental to the primary business of said firm,
16 corporation or entity, and when the costs of such
17 investigations are not charged directly back to
18 the particular client or customer who directly
19 benefits from the investigation;

20 5. "Armed private investigator" means a private investigator
21 authorized to carry a firearm;

22 6. "Security agency" means a person, firm, corporation, or
23 other private legal entity in the business of security guard
24 services or armed security guards for hire;

1 7. "Security guard" means an individual contracting with or
2 employed by a security agency, private business or person to prevent
3 trespass, theft, misappropriation, wrongful concealment of
4 merchandise, goods, money or other tangible items, or engaged as a
5 bodyguard or as a private watchman to protect persons or property,
6 but shall not include:

7 a. for individuals operating unarmed, any person employed
8 as a private watchman or security guard by one
9 employer only in connection with the affairs of such
10 employer where there exists an employer-employee
11 relationship,

12 b. a full-time certified peace officer of the United
13 States, this state, or any political subdivision of
14 either or a duly appointed and CLEET-certified reserve
15 officer of this state,

16 (1) while such peace officer is engaged in the
17 performance of his or her official duties within
18 the course and scope of his or her employment
19 with the United States, this state, or any
20 political subdivision of either,

21 (2) while such peace officer is engaged in the
22 performance of his or her duties as a railroad
23 police officer,
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1 (3) who receives compensation for private employment
2 on an individual or an individual independent
3 contractual basis as a patrolman, guard, or
4 watchman if such person is employed in an
5 employer-employee relationship or is employed on
6 an individual contractual basis, or

7 (4) who receives compensation from an employer-
8 employee relationship or an individual
9 independent contractor basis with any licensed
10 security agency as defined in this section or any
11 private business or person to perform security or
12 investigative services,

13 c. any person whose terms of employment as a security
14 guard are governed by a collective bargaining
15 agreement on May 9, 1989, and

16 d. any person who is employed as a full-time security
17 guard by a financial institution on May 9, 1989;

18 8. "Armed security guard" means a security guard authorized to
19 carry a firearm;

20 9. "Investigative agency" means a self-employed private
21 investigator, a firm, a corporation, or other private legal entity
22 in the business of soliciting the business of private investigation
23 and/or providing private investigations and investigators;

1 10. "Special event" means a public activity in the form of an
2 athletic contest, charity event, exposition or similar event that
3 occurs only on an annual or noncontinuing basis; and

4 11. "Special event license" means a temporary license issued
5 pursuant to the Oklahoma Security Guard and Private Investigator Act
6 which restricts the license holder to employment as a security guard
7 only for the duration of a particular event.

8 SECTION 3. This act shall become effective November 1, 2013.

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